

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Laisheng Liu
Serial No. : 10/573,099
Filed : March 22, 2006
For : Electrical Depilator
Examiner : David C. Eastwood
Group Art Unit : 3731
Docket No. : 1124970-0018

I hereby certify that this paper is being
transmitted via the Electronic Filing System
to the U.S. Patent and Trademark Office on
the date indicated below.

/Andrew Fessak/ July 20, 2010
Signature Date

**Mail Stop AF
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450**

**REMARKS ACCOMPANYING
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

Applicant requests review of the final rejection in the Office Action mailed April 28, 2010 in the referenced application. Submitted concurrently herewith are the following documents:

Notice of Appeal (Form PTO/SB/31); and

Applicant's Pre-Appeal Brief Request for Review (Form PTO/SB/33).

This paper is being filed within three months of the mailing date of the Office Action, and therefore an extension of time is not required.

The Commissioner is authorized to charge the Notice of Appeal fee of \$270.00 under 37 C.F.R. §41.20(b)(1) for a small entity to Deposit Account No. 23-1703.

REMARKS

I. Request for review of outstanding §102(b) rejection

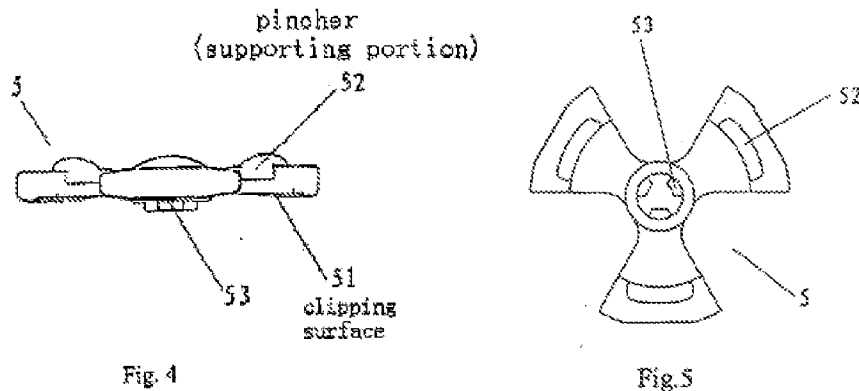
Applicant respectfully submits that the Examiner has made factual errors by incorrectly interpreting US 5,976,157 to Yiu (“Yiu”) and citing this document in support of the rejection under 35 U.S.C. §102(b) of record.

II. The claimed invention

The pending claims are directed to an electrical depilator for removing hair from the skin. The depilator comprises a main body, motor, gear reduction set, and an depilating head. The depilating head consists essentially of a set of identical unitary single-pieces which provide the depilation action upon rotation. Advantageously, Applicant’s invention simplifies depilator assembly by reducing the number of parts to be stocked during manufacture of the device.

III. Differences between Applicant’s invention and Yiu

As illustrated in Applicant’s Figs. 4 and 5 (reproduced below), each arm of each of Applicant’s identical single-pieces has a clipping surface 51 and a supporting portion 52. The clipping surface and supporting portion are on opposite surfaces of the same arm. The clipping surfaces of pairs of single-pieces in the assembled device directly face each other, without additional elements inserted between any of the single-pieces in the set, to provide a clipping gap. As the single-pieces rotate about the arcuate shaft, the supporting portions of adjacent single-pieces impart a clamping force on the clipping surface of the single-pieces and cause the clipping gaps to open and close, and thereby to pluck hairs from the user’s skin.



Figs. 4 and 5- Side and top views of Applicant’s single-pieces

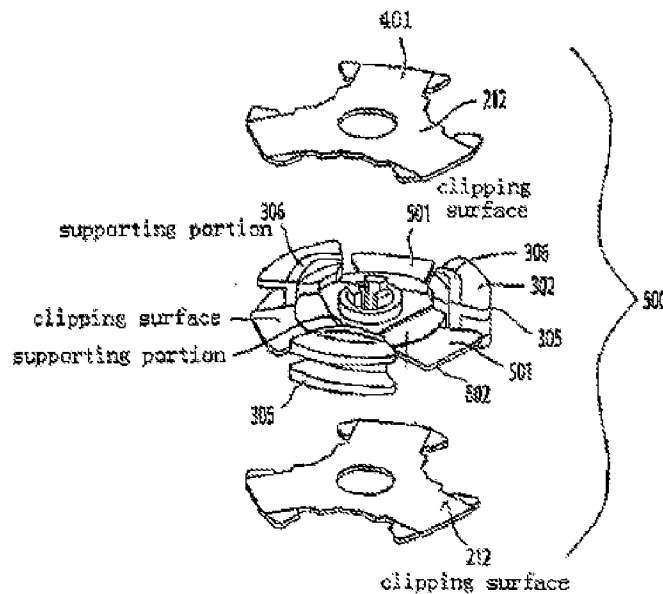


Fig. 3

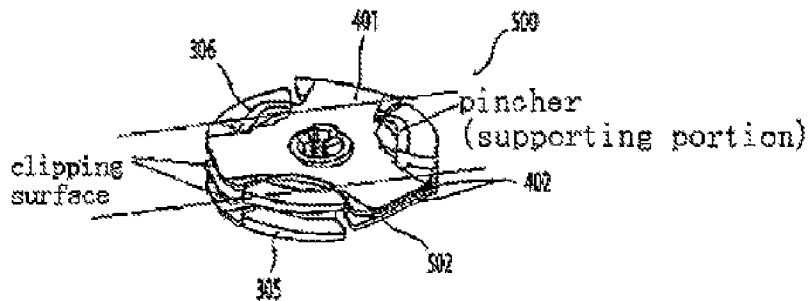


Fig. 5

Figs. 3 and 5- Perspective views of Yiu's disc assemblies

In contrast, as illustrated in Yiu's Figs. 3 and 5, Yiu discloses disc assemblies 500 formed of a pair of outer discs 212 and an internal disc assembly 301, and two peripheral portions 402 of the pair of outer discs 212 are pressed against one peripheral portion 502 of the internal disc assembly 301. The outer discs 212 merely have flat extending arms 401 of metal which only have clipping surfaces and do not have any pinching means to cause the arms to open and close. The pinchers 306 and the flattened peripheral portions 502 are provided on the same internal disc assembly 301. The internal disc assemblies 301 have separate U-shaped members 305 with pinchers (supporting portion) 306, and flattened peripheral portions (clipping surface) 502. The

U-shaped members provide pinching action upon rotation so that the flattened peripheral portions 502 and two flattened peripheral portions of the two arms 401 of the pair of outer discs 212 can form traps for hair. The U-shaped members and the flattened peripheral portions alternate on the perimeter of the internal discs. However, the pinchers 306 and the flattened peripheral portions 502 are radially spaced away, and are not opposite to each other on the same arm 212.

Yiu does not disclose discs having both pinching portions (supporting portion) and flattened peripheral portions (clipping surface) on the same arm. Accordingly, the structure of Applicant's single-pieces, which have both pinching portions and clipping surfaces on each of the arms, is not the same as the structure of Yiu's internal disc assemblies, and the Examiner cannot maintain the lack of novelty rejection on these grounds.

Furthermore, even if one were to take a plurality of Yiu's internal discs (omitting the outer discs), one could not simply place them on an arcuate shaft to arrive at the Applicant's invention. Placing internal discs in an alternating arrangement on the shaft (U-shaped member, flat portion, U-shaped member, flat portion, etc.) would not allow for adjacent pairs of flattened peripheral portions of the discs to come close enough together to form traps for hair.

Alternatively, if one were to place the flattened portions of the internal discs together, the bulky U-shaped members would be superimposed on each other, and not allow the flattened portions to rotate close enough to form traps for hair. Accordingly, one cannot derive Applicant's single-pieces from Yiu without the benefit of hindsight from Applicant's disclosure.

Applicant supplements these brief comments by referring to the remarks of record in his Amendment of March 1, 2010 distinguishing the claims over Yiu. Specifically, on page 5, Applicant shows that Yiu does not disclose individual depilating discs with arms having both clipping surfaces and pinching portions. On pages 6 and 7, Applicant shows that Yiu's internal disc assemblies could not be rearranged to purportedly arrive at the pending claims without destroying Yiu's invention.

IV. Conclusion

Applicant submits that Applicant's novel depilator is not disclosed by Yiu. Consequently, the structure of the claimed electrical epilator is not anticipated by Yiu and is distinguishable over Yiu. The Examiner can only allege the pending claims lack novelty over Yiu by engaging

in a hindsight reconstruction of Applicant's invention with the benefit of Applicant's disclosure. Accordingly, the Examiner's rejection under §102(b) is clearly improper and should be withdrawn.

Applicant submits that the pending claims are in condition for allowance, which action is urgently requested.

Although Applicant believes the claims are in condition for allowance, in order to expedite prosecution and allowance, Applicant is willing to consider any proposed amendments to the pending claims which may be suggested by the panel of examiners reviewing this Request.

Authorization is hereby given to charge any fee in connection with this communication to Deposit Account No. 23-1703.

Dated: July 20, 2010

Respectfully submitted,
/Andrew Fessak/
Andrew Fessak, Reg. No. 48,528
Customer No. 07470
Direct Line: (212) 819-8437